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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,738

Applicant(s)

DREW ET AL.

Examiner

HEIDI RIVIERE

Art Unit

3689

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2, 4-20, 22-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-20, 22-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

RESPONSE TO ARGUMENTS

1. Applicant's arguments with respect to **Claims 1-2, 4-20, 22-46** have been considered and the rejection has been revised. The above claims remain rejected. Examiner used **Spencer (US 6,356,909 B1)** patent and **Spencer** in view of **Vanderboom et al. (US 2002/0147596 A1)** (hereinafter "**Vanderboom**") to reject claims **1-2, 4-20, 22-46**. Spencer teaches a web based system for managing request for proposals and responses while Vanderboom disclose an online laboratory services brokerage system. In the current response and in light of new amendments, Examiner will reject **Claims 1-2, 4-20, 22-46** under 35 USC 103 to give Applicant the ability to address the Examiner's position and the obviousness of the invention.

2. Applicant has amended claim 1 to include the type of data categories contained and organized by the environmental project survey. Claim 1 discloses a system/apparatus and as such any amendment to this claim will be analyzed as to whether or not it defines the structure of the system disclosed. Accordingly, an inputting means is interpreted as a computer or a keyboard. Data in regards to a computerized system can be anything and is therefore, non-functioning as it also adds no structural component to the apparatus. Furthermore, the second amended portion of claim 1 states the intended use of the survey query means used for matching and does not change the structure of the system. As such, the rejection of claim 1 is not withdrawn.

Art Unit: 3689

3. Applicant has also amended claims 37 and 40 to include the type of data categories contained and organized by the environmental project survey. Vanderboom addresses various categories that in turn reflect the amended disclosure in these claims having to do with the groups of air, energy, land, waste and water. On paragraph 43 of page 3 in the Vanderboom reference, three tiers are presented in a chart and some of the categories noted are petroleum, forest and paper, as well as agriculture. As a result it would have been obvious to one of ordinary skill in the art at the time of the invention to understand that these factors would be present in a system dealing with environmental projects. Further amending these claims to note purpose of the resource provider is non-functional.

4. Applicant argues that Vanderboom does not teach "displaying a user with an environmental project survey that includes a plurality of criteria data categories". It is unclear what applicant is referring to. In claim 1, applicant states "display means, responsive to a user selecting an environmental project survey, for presenting said user with a display of said environmental project survey". Spencer teaches a displaying means in col. 3, lines 18-25 – computer used to organize and make information accessible. In continuation and for example in claim 8 where applicant states "the selected land first tier displays" as written and as best understood by examiner this statement refers to the type of data included in the first tier. In contrast to what applicant argues tiers are inherently hierarchical. According to Merriam Webster dictionary, tier means "1 a: a row, rank, or layer of articles ; *especially* : one of two or more rows,

Art Unit: 3689

levels, or ranks arranged one above another” (<http://www.merriam-webster.com/dictionary/tier>). In a system, the tiers add structure but the type of tier and the type of data within the tier add no structure, is considered non-functional descriptive and adds or holds little patentable weight.

5. Therefore, the rejections of claims **1-2, 4-20, 22-46** are not withdrawn.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-2, 4-20, 22-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Spencer (US 6,356,909 B1)** in view of **Vanderboom et al. (US 2002/0147596 A1)** (hereinafter “**Vanderboom**”).

8. **With respect to claim 1: (Currently Amended)** Spencer teaches:

- environmental project survey storage means for storing data representative of at least one environmental project survey; (col. 4, lines 27-30; col. 8, lines 38-43 – RFP questions are stored in the response database)
- display means, responsive to a user selecting an environmental project survey, for presenting said user with a display of said environmental project survey, said environmental project survey including a plurality

of criteria data categories; (col. 3, lines 18-67 – question database; “an automated response system enables RFP respondents to capitalize on their previously created responses”; users respond to questions; “computer system assembles and organizes the information into a common format...accessible through a website interface”; “the system helps users track critical proposal guidelines)

- input means for enabling said user to input data into at least one of said plurality of criteria data categories on said environmental project survey, (col. 3, lines 18-67 - computer used to organize and make information accessible)
- data transfer means for transmitting said environmental project survey to a central station; (col. 3, lines 18-67 – web interface used to make information accessible over the Internet)
- database means located in said central station for storing said environmental project survey and data representative of at least one characteristic of each of said resource providers; (col. 4, lines 27-30; col. 8, lines 38-43 - RFP questions are stored in the response database) and
- survey query means operable with said database means for automatically matching said user input data from said environmental project surveys with said data representative of said at least one characteristic of each of said resource providers for selecting one of

said environmental projects for funding by at least one of said resource providers. (col. 4, lines 14-22 – scores automatically tallied)

Spencer does not teach, however Vanderboom teaches:

- said environmental project survey having hierarchically organized tiers of criteria data categories selected from the group consisting of air, energy, land, waste, and water, such that when one of the criteria data categories are selected by said user, subcategories relating to said selected criteria data categories are displayed to said user; (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

Furthermore, the data identifying categories of projects is non-functional descriptive data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the subset. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the subset, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the subset.

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal.

The Examiner asserts that the data identifying categories of projects adds little, if anything, to the claimed acts or steps and thus do not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. The subjective interpretation of the data does not patentably distinguish the claimed invention.

9. **With respect to claim 2:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses identified environmental projects is selected from the group of projects consisting of clean energy projects, energy efficient projects, and pollution prevention projects. (Fig. 9₂ – list member laboratory capabilities in the areas of environmental soil, waste, hazardous waste and water analysis that could be helpful in various projects especially pollution prevention)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal.

Art Unit: 3689

The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

10. With respect to claim 3: (Canceled)

11. With respect to claim 4: (Currently Amended) Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said tiers are selected from a group consisting of a first tier, a second tier and a third tier. (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific tiers of the groups because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the

Art Unit: 3689

RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

12. **With respect to claim 5:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses first tier comprises criteria data categories selected from the group consisting of air, energy, land, waste, and water. (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; first tier includes petroleum)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific tiers of the groups because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their

Art Unit: 3689

capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

13. **With respect to claim 6:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses selected first tier displays a second tier of related criteria data categories. (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific tiers of the groups because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

14. **With respect to claim 7:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses selected air first tier displays a second tier of criteria data categories selected from the group consisting of acid precipitation, ambient, indoor, monitoring, noise, odor, pollutants/criteria, pollutants/gases, pollutants/greenhouse, pollutants/particulate matter, pollutants/primary/secondary, radon, sampling, sources/area, sources/fugitive, sources/mobile commercial, sources/mobile fleet, sources/mobile passenger, sources stationary, visibility/pristine, and visibility/urban. (fig. 84 – halogens; page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; first tier includes chemical)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the

Art Unit: 3689

combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

15. **With respect to claim 8:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses selected energy first tier displays a second tier of criteria data categories selected from the group consisting of biofuels, biomass, demand control, energy efficient, energy generation, energy sources, fuel cell, geothermal, hydro, photovoltaics, clean energy certificates, solar, and wind. (fig. 8₃ – hydrocarbons; page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; first tier includes petroleum)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the

Art Unit: 3689

combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

16. **With respect to claim 9:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said selected land first tier displays a second tier of criteria data categories selected from the group consisting of agriculture, extractive industries, forest, horticulture, industrial, open space, parks, and residential. (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; agriculture mentioned in one of the tiers)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the

Art Unit: 3689

combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

17. **With respect to claim 10:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said selected waste first tier displays a second tier of criteria data categories selected from the group consisting of bio-solids, construction/ demolition, fly ash/normal waste, fly ash/special waste, hazardous/biological, hazardous/chemical treatment, hazardous/disposal, hazardous/physical treatment, hazardous/recycling/reuse, hazardous/storage, hazardous/transportation, medical/special wastes, solid/landfills, solid/non-organic, solid/organic, solid/precycle, solid/recycling, solid/reduction, solid/reuse, and solid/waste to energy. (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; medical products mentioned in second tier)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system

Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

18. **With respect to claim 11:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said selected water first tier displays a second tier of criteria data categories selected from the group consisting of aquifer recharge, "grey" water reuse, ground, industrial reuse, irrigation, non-point treatment, point source treatment, potable, quality, real time monitoring, storm, surface, use reduction, waste (effluent), and wetlands. (fig. 8_s – surface topography)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to

Art Unit: 3689

select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

19. **With respect to claim 12:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said third tier of criteria data categories is selected from the group consisting of building/design, carbon trading, conservation, consulting, consumer products, ecology/biology, ecotourism, education/training/outreach, emergency response, engineering, equipment sales/rental, financial services, food, geographic information systems (GIS), geology/geophysical, import/export, information systems, legal services, management systems, marketing/communications, natural resource management, packaging/storage, pollution prevention, process/prevention technologies, public health, public policy, remediation, resource recovery, reuse, safety, source reduction, sustainable development, and transportation. (page 4, paragraph 61 - consulting services provided)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time why they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal.

Art Unit: 3689

The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

20. **With respect to claim 13:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses criteria data categories selected from the group consisting of user identified environmental projects funding and cost data. (page 2, paragraph 72; Figs. 3₁₀ and 3₁₈ - "How is Pricing Established?" section – Labseek program contains project fee and cost of job defined in project.)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific categories and cost information because this information would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the

Art Unit: 3689

structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

21. **With respect to claim 14:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses criteria data categories selected from the group consisting of earliest begin date for said user identified environmental project, latest initiation date for said user identified environmental project, duration of said user identified environmental project, and location of said user identified environmental project. (fig. 3₃ – details include project description and work start date)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding start time of the project as well as location information because this enables laboratories to figure out if they can fit the project into their schedule. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an

Art Unit: 3689

appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

22. **With respect to claim 15:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said environmental project surveys further comprises: criteria data categories selected from the group consisting of partner type, target audience, community served, amount of resources required, quantifiable metrics/dollars spent, scalability of the user identified environmental projects, and replicability of said user identified environmental projects. (figs. 9₁ and 9₂ – general member information questions presented as well as services and scientist inventory)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system

Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

23. **With respect to claim 16:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses partner type is selected from the group consisting of business, government, non-government, and academic. (pages 3 and 4, paragraphs 57-61 – members can be corporate, non-profits or consultants)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the

Art Unit: 3689

combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

24. **With respect to claim 17:** Spencer teaches criteria data categories selected from the group consisting of user biographical data and free form text. (col. 14, line 10-16 – general information on company such as)

25. **With respect to claim 18:** Spencer teaches reporting means for generating a report from said user selected criteria data category, said report selected from the group consisting of the number of user identified environmental projects submitted, the past funds granted to a user, the past funds granted to a user identified environmental project associated with said partner, and the comments on finished user identified environmental projects for a user. (col. 9, line 30-45 – up-to-date report on all information gathered with proposal)

26. **With respect to claim 19:** Spencer teaches a report selected from the group consisting of the number of user identified environmental projects submitted within a date range, the number of user identified environmental projects submitted by location, the number of user identified environmental projects matching a specified duration, the number of user identified environmental projects submitted by a specified user, the number of user identified environmental projects that are scaleable, and the number of user identified environmental projects that are replicable, the amount of funds being requested (average), the amount of administration costs being requested (average), the amount of leverage [cash, in-kind, both] (average), the number of projects (or % of projects) per category, the number of projects (or % projects)

Art Unit: 3689

per target audience, (sorted by location), the number of projects (or % of projects) per partner type (average), and the amount of time to initiate a project (average), the estimated duration of a project (average). (col. 9, line 30-45 – up-to-date report on all information gathered with proposal)

Furthermore, the data identifying the types of environmental projects is non-functional descriptive data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no

Art Unit: 3689

new and unobvious functional relationship between the descriptive material and the substrate.

The Examiner asserts that the data identifying the selectable options and the information displayed upon selection of each option adds little, if anything, to the claimed acts or steps and thus do not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the selectable options and the information displayed upon selection of the options does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

27. **With respect to claim 20:** Spencer teaches the group consisting of world wide web, internet, intranet, and telephony. (col. 5, lines 60-63; col. 6, lines 15-30 – Internet-based computer system used)

28. **With respect to claim 21: (Canceled)**

29. **With respect to claim 22:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses number assigning means for assigning an identification number to each of said environmental project surveys. (3₃ – project given PO number)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

30. **With respect to claim 23:** Spencer teaches an error checking means for validating said criteria data category selected on said environmental project survey prior to transmission to said central station. (col. 9, lines 1-12 – responses are edited)

31. **With respect to claim 24:** Spencer teaches a receipt confirmation means for notifying said user that said environmental project survey was received by said central station. (col. 8, lines 43-51 – email notification sent)

32. **With respect to claim 25:** Spencer teaches receipt confirmation means comprises email notification. (col. 8, lines 43-51 - email notification sent)

33. **With respect to claim 26:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses said receipt confirmation means includes said identification number. (Figure 3₁₃ – project number used to identify project status)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the specific projects because this would enable laboratories to know ahead of time whether they should submit a proposal. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

34. **With respect to claim 27:** Spencer teaches an updating means for allowing a user to update said environmental project survey once it has been

Art Unit: 3689

transmitted to said central station. (col. 16, lines 52-67 – database updated to reflect new changes.)

35. **With respect to claim 28:** Spencer teaches a locking means for disabling a user's ability to update said environmental project survey once said user identified environmental project is under review by said central station. (col. 11, lines 20-26 – users have access only to data that they were given permission to view)

36. **With respect to claim 29:** Spencer teaches code search means for enabling said central station to search for the appropriate code listings that are used to dynamically populate list boxes on said environmental project surveys. (col. 8, lines 23-38; col. 9, lines 60-64 – questions are compiled using question database)

37. **With respect to claim 30:** Spencer teaches the code listings is selected from the group consisting of project categories, target audience type, organization type, partner types, applicant type, state codes, and tiers. (col. 1, lines 52-60 – "The RFP's typically comprised of questions related to the potential vendor's capabilities, operations, financial history, service areas and more")

38. **With respect to claim 31:** Spencer teaches editing means for allowing an user to perform a function on the code listings selected from the group consisting of browse, add, and delete. (col. 8, lines 43-51 – responses are edited)

39. **With respect to claim 32:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses an archive

Art Unit: 3689

means for saving said environmental project survey to an archive library. (Figure 5, item 7 – analysis report is archived)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the archiving of the report because this information would enable laboratories to have access to the information when the process is over. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

40. **With respect to claim 33:** Spencer teaches a delete means for deleting said environmental project survey from said database means once said environmental project survey has been archived to said archive library. (col. 16, lines 52-67 – responses can be deleted)

41. **With respect to claim 34:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses an archive

Art Unit: 3689

update means that notifies said users that said environmental project surveys will be sent to said archive library on said database means if not updated. (fig. 5, items 7 and 8 – lab has ability to archive reports)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding the archiving of the report because this information would enable laboratories to have access to the information when the process is over. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

42. **With respect to claim 35:** Spencer teaches a restore means for restoring said deleted environmental project survey from said archive library to said database means. (col. 16, lines 58-59 – “retired response may be re-activated from retired status)

Art Unit: 3689

43. **With respect to claim 36:** Spencer teaches the limitations cited in the above rejections. Spencer fails however Vanderboom discloses dating means for tracking submitted dates and updated dates of said environmental project surveys. (Vanderboom; Figure 3₁₃ – column for “Date of RFP submission by customer”)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Spencer with details of Vanderboom regarding tracking submitted dates because this information would enable laboratories and reviewers to know the status of proposal or whether it should be reviewed. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

44. **With respect to claim 37: (Currently Amended)** Spencer teaches:

- presenting said user an environmental project survey to a display connected to said remote computer, said environmental project survey

- including at least one criteria data category; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.)
- transmitting said environmental project survey to said server; (col. 3, lines 18-25 - computer used to organize and make information accessible; web based interface used to make information accessible over the Internet)
 - storing said environmental project survey to said database connected to said server; (col. 4, lines 27-30; col. 8, lines 38-43 - RFP questions are stored in the response database) and
 - automatically matching said inputted at least one criteria data category from said environmental project survey with said data representative of said resource provider for selecting one of said environmental projects for funding by at least one of said resource providers. (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

Spencer does not teach the following limitation, however Vanderboom teaches:

- inputting data to said at least one criteria data category on said environmental project survey, said environmental project survey having hierarchically organized tiers of criteria data categories selected from the group consisting of air, energy, land, waste, and water, such that when one of the criteria data categories are selected by said user,

subcategories relating to said selected criteria data categories are displayed to said user; (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; agriculture mentioned in one of the tiers)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

Furthermore, the data identifying purpose of the resource provider is non-functional descriptive data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter.

Art Unit: 3689

See *Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; see also *Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate.

The Examiner asserts that the data identifying purpose of the resource provider adds little, if anything, to the claimed acts or steps and thus do not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the selectable options and the information displayed upon selection of the options does not functionally relate to the substrate and thus does not change

Art Unit: 3689

the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

45. **With respect to claim 38:** Spencer teaches notifying said resource provider of said matching at least one criteria from said stored environmental project surveys. (col. 4, lines 56-58 – “The RFP respondents may also be notified of their status on any given RFP.”)

46. **With respect to claim 39:** Spencer teaches saving to said database said matching said selected at least one criteria data category from said environmental project survey with said resource provider. (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

47. **With respect to claim 40: (Currently Amended)** Spencer teaches informing a resource provider having specific criteria about matching user identified environmental projects submitted to a central station through a remote computer, said central station having a server connected to said remote computer through a network, comprising:

- presenting an environmental project survey to a user located at said remote computer, said environmental project survey including at least one criteria data category; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.)
- transmitting said environmental project survey to said central station including a database; (col. 3, lines 18-25 - computer used to organize and make information accessible)

Art Unit: 3689

- storing said environmental project survey to said database (col. 4, lines 27-30; col. 8, lines 38-43 - RFP questions are stored in the response database);
- matching said inputted at least one criteria data category from said environmental project survey with said specific criteria to produce at least one environmental project survey that matches said criteria data category for selecting one of said environmental projects for funding by at least one of said resource providers; (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”) and
- transmitting from said central station to said resource provider said matched at least one environmental project surveys. (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

Spencer does not teach the following limitation, however Vanderboom teaches:

- inputting data into said at least one criteria data category on said environmental project survey, said environmental project survey having hierarchically organized tiers of criteria data categories selected from the group consisting of air, energy, land, waste, and water, such that when one of the criteria data categories are selected by said user,

subcategories relating to said selected criteria data categories are displayed to said user; (page 3, paragraph 43 – see chart, categories separated into tier 1, tier 2, and tier 3; agriculture mentioned in one of the tiers)

As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in Spencer with the Vanderboom invention in regards to finding a laboratory capable of performing the request in the proposal. The Spencer system is web based and manages the requests for proposals and responses. The Spencer system provides the structure necessary to create the RFP, analyze responses and find an appropriate match. The system Vanderboom presents an online laboratory services brokerage system used to select laboratories capable of working on specific projects the match their capabilities. Both disclosures compliment each other and therefore the combination of both would be obvious because their ultimate goal is finding a laboratory to perform the requested task.

Please note discussion of non-functional data in claim 37.

48. **With respect to claim 41:** Spencer teaches saving to said database said matching at least one criteria data category from said environmental project survey. (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

49. **With respect to claim 42:** Spencer teaches submitting a user identified environmental project to a central station through a remote computer, said

Art Unit: 3689

central station having a server connected to said remote computer through a network, comprising:

- presenting a user an environmental project survey, said environmental project survey including at least one criteria data category; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.)
- selecting said at least one criteria data category on said environmental project survey; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.) and
- transmitting said environmental project survey to a central station. (col. 8, lines 39-51 – document posted in Internet environment)

50. **With respect to claim 43:** Spencer teaches editing said transmitted environmental project survey after it is stored at said central station. (col. 9, lines 1-7, responses can be edited and modified)

51. **With respect to claim 44:** Spencer teaches:

- selecting said at least one criteria data category to query with said input device; (col. 6, lines 37-45 – user selects search criteria)
- matching at least one of said criteria data category with at least one of said specific criteria; (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

- generating, responsive to said selecting, said report; and displaying the results of said report to said display. (col. 9, lines 30-45 – proposal analysis are presented in user customized reports)

52. **With respect to claim 45:** Spencer teaches:

- providing at least one server computer located at a central station in communication with a computer network; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.)
- generating at least one environmental project survey from said server computer; (col. 8, lines 23-38 – question database used to create questions for RFP)
- transmitting said at least one environmental project survey from said server computer to at least one remote computer; (col. 6, lines 31-45 – applications can be completed over the Internet via remote computer.)
- inputting at least one of said criteria data category on said at least one environmental project survey; (col. 8, lines 23-38 – question database used to create questions for RFP)
- transmitting said inputted environmental project survey to said at least one server computer; (col. 3, lines 18-25 - computer used to organize and make information accessible)
- storing said at least one resource provider at said central station; (col. 4, lines 27-30; col. 8, lines 38-43 - RFP questions are stored in the response database) and

Art Unit: 3689

- matching said at least one criteria data category from said at least one environmental project survey with said at least one resource provider.
(col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

53. **With respect to claim 46:** Spencer teaches a match among the stored at least one said criteria data category from said at least one environmental project survey and said at least one said resource provider. (col. 14, lines 56-67 – “preferably there are three outcomes, no response matches the question, one response matches the question, or multiple responses match the question”)

54. **With respect to claim 47: (Canceled)**

55. **With respect to claim 48: (Canceled)**

Art Unit: 3689

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. R./
Examiner, Art Unit 3689

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689